

## **City of Atlanta Board of Ethics Minutes – May 19, 2005**

The regular monthly meeting of the City of Atlanta Board of Ethics was called to order by John D. Marshall, Jr., chairperson, on Thursday, May 19, 2005, at 6:15 p.m. in City Council Committee Room 2. Attending the meeting were board members Chuck Barlow, Kenyatta Mitchell, Lawrence S. Levin, and Robert B. Remar, Ethics Officer Ginny Looney, and staff member Vickie Binns. Board member Leah Janus was absent.

The board approved the minutes from the April 28, 2005, meeting as presented.

Following a discussion about the proposed Formal Advisory Opinion 2005-3 on city employees who do business with the city, Mr. Remar moved to approve the opinion as drafted, Ms. Mitchell seconded the motion, and the motion was adopted. Mr. Barlow did not participate or vote on the issue due to a potential conflict of interest. The opinion summary states: "A city employee may provide goods and services to the city through a privately or personally owned business only under limited circumstances. The business with the city must be conducted through sealed competitive bidding or requests for proposal where the bids are opened and awarded at meetings open to the public."

Ms. Looney next reported to the board on the financial disclosure process. She recommended that the board suspend payment of the \$500 fine previously imposed on Arkiethon Harden in Case 05FD001 due to Mr. Harden's recent health problems. Ms. Mitchell moved to reconsider the fine previously imposed on Mr. Harden, but to maintain the public reprimand of him, and Mr. Barlow seconded the motion. The motion was lost. Mr. Remar then asked Ms. Looney to send another letter to Mr. Harden seeking payment of the fine. On the remaining persons who did not file their annual financial disclosure statement or filed late, Ms. Looney recommended that the board (1) issue a written letter of reprimand to the remaining nine non-filers, none of whom are currently serving in a city position; (2) issue a written letter of reprimand to the nine late filers who are currently serving in a city position as either a city board member or NPU officer and who did not have reasonable cause for their late filing; (3) take no action against the remaining 18 late filers who are no longer with the city in any capacity. Mr. Remar moved to accept the recommendations, Mr. Barlow seconded the motion, and the motion carried.

The board reviewed section 2-808, which prohibits officials and employees from appearing on behalf of private interests before any agency, and an informal advisory letter by the ethics officer interpreting the section. Board members expressed agreement that the provision prevents a city official from appearing before the board on which he or she serves as a member when the appearance is made on behalf of another person, company, entity, or the public's interest. Mr. Marshall requested that Ms. Looney draft a formal advisory opinion on the issue for the board to consider at its next meeting.

The board next considered a request for a formal advisory opinion from former deputy city attorney Rosalind Rubens Newell, who is of counsel with the law firm of McKenna Long & Aldridge, LLP. She seeks guidance on whether the post-employment restrictions in section 2-810 allow her to represent a client having a case, claim or controversy against the City of Atlanta in six hypothetical situations:

1. Claim arose after January 2005 and Ms. Newell's representation does not involve appearances before any city tribunal for one year. Mr. Remar moved, with a second by Dr. Levin, to answer question one in the affirmative with the caveat that the matter at issue, or client, is not one in which Ms. Newell was directly concerned, personally participated, actively considered, or gained knowledge while with the city. The board approved the motion.

2. Claim arose after January 2005 and Ms. Newell's representation does involve appearances before city tribunals within the one-year period. Mr. Remar moved to accept Ms. Looney's recommendation to answer no to question two based on the board's previous decision prohibiting employees from appearing before any city agency for one year after they leave the city's employment. Ms. Mitchell seconded the motion, which the board adopted.

3 & 4. Claim arose prior to January 2005, but does not involve a matter about which Ms. Newell had actual knowledge or a role in making decisions. Claim arose prior to January 2005 and does not involve a matter under Ms. Newell's active consideration, but her subordinates had actual knowledge of the matter. Considering questions three and four together, Mr. Barlow moved to accept Ms. Looney's recommendation that the former deputy city attorney could not be involved for one year in any matter that arose before she left the city. Ms. Mitchell seconded the motion, which passed.

5. Claim arose after January 2005 and involves Ms. Newell's appearances before city agencies, such as the Board of Zoning Adjustment. Mr. Barlow made a motion to answer no to question five, Ms. Mitchell seconded the motion, and the board adopted the motion.

6. Claim arose after January 2005 and involves contact by Ms. Newell with city employees or officials on behalf of clients. Mr. Barlow moved, with a second from Mr. Remar, to respond no to question six on contacting the city on behalf of clients for one year. The motion was adopted. Ms. Looney was asked to draft a formal advisory letter from the board and include a commendation to Ms. Newell for bringing the issues before the board.

Ms. Looney recommended that the board dismiss CO-04-003 for lack of probable cause. The matter involves a formal ethics complaint that Fatai A. Salami, a former ground transportation operator, filed against Winston Cooper, the airport's ground transportation manager, alleging incompatible business interests. Ms. Mitchell moved to end the investigation against Mr. Cooper based on the failure to substantiate the claims against him, and Mr. Remar seconded the motion. The board voted unanimously to dismiss the complaint for lack of probable cause.

Ms. Looney gave a report on her activities as ethics officer since the beginning of the year, including a review of the ethics efilg project.

Dr. Levin moved to cancel the board's meeting on June 16. Ms. Mitchell seconded the motion, which was adopted. The board's next meeting is scheduled for Thursday, July 21, 2005, at 6 p.m.

Having no further business, the meeting adjourned.

Ginny Looney

Date approved: July 21, 2005